

NOTICE OF SALE

**CITY SCHOOL DISTRICT OF THE CITY OF ALBANY**

**ALBANY COUNTY, NEW YORK**

**\$5,676,000 Bond Anticipation Notes, 2011**

Telefax (315-752-0057), telephone (315-752-0051 **Ext. 1**) or written bids will be received and considered by the undersigned President of the Board of Education of the City School District of the City of Albany, Albany County, New York, at the offices of Fiscal Advisors & Marketing, Inc. 120 Walton Street • Suite 600, Syracuse, New York 13202, until **12:00 o'clock P.M.**, Prevailing Time on the **10<sup>th</sup> day of August, 2011** for the purchase in Federal Funds, at not less than par and accrued interest of \$5,676,000 Bond Anticipation Notes, 2011 (the "Notes") to be dated August 17, 2011 and maturing December 29, 2011, with interest payable at maturity. **The Notes are to be issued without option of prior redemption.**

The Notes will be valid and legally binding general obligations of the School District, all the taxable real property within which will be subject to the levy of ad valorem taxes to pay said Notes and interest thereon, without limitation as to rate or amount. The School District will pledge its faith and credit for the payment of the principal of said Notes and interest thereon. The Notes are being issued pursuant to the Constitution and statutes of the State of New York, including among others, the Education Law, the Local Finance Law and a bond resolution adopted by the Board of Education authorizing the financing of the costs of the Phase I reconstruction projects at Albany High School.

**The Notes will not be designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code.**

The purchaser shall have the option of having the Notes issued in bearer form in denominations of \$100,000 or multiples of \$15,000 in excess thereof, except for one necessary odd denomination, or in the form of book-entry-only notes registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"). If the Notes are issued in bearer form, principal of and interest on the Notes will be payable in Federal Funds at maturity at such bank or trust company located and authorized to do business in the State of New York as may be selected by the successful bidder. Paying agent fees, if any, shall be paid by the purchaser.

The School District will act as Paying Agent for the Notes. The School District contact information is as follows: Ms. Tishawn Terry-Garcia, District Treasurer, City School District of the City of Albany, Administration Bldg., Academy Park, Albany, New York 12207, phone: 518-475-6030, fax: 518-475-6024, email address: tgarcia@albany.k12.ny.us.

If the purchaser notifies Bond Counsel by 3:00 o'clock P.M., Prevailing Time on the date of sale, such Notes may be issued in the form of book-entry-only notes, in the denomination corresponding to the aggregate principal amount of the Note. In the event that the Purchaser chooses book-entry-only notes, as a condition to delivery of the Notes, the successful bidder will be required to cause note certificates to be (i) registered in the name of Cede & Co., as nominee of DTC, and (ii) deposited with DTC to be held in trust until maturity. DTC is an automated depository for securities and clearinghouse for securities transactions, and is responsible for establishing and maintaining a book-entry system for recording the ownership interests of its participants, which include certain banks, trust companies and securities dealers, and the transfers of the interests among its participants. The DTC participants will be responsible for establishing and maintaining records with respect to the Notes. Individual purchases of beneficial ownership interests in the Notes may only be made through book entries (without certificates issued by the School District) made on the books and records of DTC (or a successor depository) and its participants, in denominations of \$100,000 or integral multiples of \$15,000 in excess thereof, except for one necessary odd denomination. Principal of and interest on the Notes will be payable by the School District or its agent by wire transfer or in clearinghouse funds to DTC or its nominee as registered owner of the Notes. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The School District will not be responsible or liable for payments by DTC to its participants or by DTC participants to beneficial owners or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If the Notes are issued as book-entry-only notes, the School District agrees to deliver the Note to DTC one day in advance of the date of delivery of the Note.

**Each bid must be for all of said Notes** and state a single rate of interest therefor in a multiple of one hundredth (1/100<sup>th</sup>) or one eighth (1/8<sup>th</sup>) of one per centum per annum. Interest will be calculated on the basis of 30 days to the month and 360-days to the year. Each bid must be for not less than the par value of the Notes. Conditional bids will be rejected.

Said Notes will be awarded to the bidder offering the lowest net interest cost, that being the rate of interest which will produce the least interest cost over the life of the Notes, after accounting for the premium offered, if any. If two or more bids offering to purchase the Notes at the same lowest net interest rate are received, an award will be made by lot from among such lowest bids. The right is reserved by said School District to reject any and all bids and any bid not complying with this Notice of Sale will be rejected.

Said Notes will be delivered in Albany, New York or New York, New York or as may be agreed with the purchaser on or about August 17, 2011. The purchase price of said Notes, in accordance with the purchaser's bid, shall be paid in Federal Funds or other funds available for immediate credit on said delivery date.

CUSIP identification numbers will be printed on the Notes if the purchaser provides Bond Counsel with such numbers by telefax or any other mode of written communication (verbal advice will not be accepted) by 3:00 o'clock P.M. on the day following the date of sale of the Notes, but neither the failure to print such number on any Note nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Notes in accordance with the terms of the purchase contract. All expenses in relation to the printing of CUSIP numbers on the Notes shall be paid for by the School District, provided, however, that the CUSIP Service Bureau charge for the assignment of said numbers shall be the responsibility of and shall be paid for by the purchaser.

The purchaser shall be obligated to furnish to the School District, when and if requested, such information requested by the School District as shall be necessary to enable the School District to determine the "issue price" of the Notes as defined in Section 1273 or 1274 of the Code.

As a condition to each purchaser's obligation to accept delivery of and pay for the Notes, such purchaser will be furnished, without cost, the following, dated as of the date of the delivery of and payment for said Notes: (i) a Closing Certificate, constituting a receipt for the Note proceeds and a signature certificate, which will include a statement that no litigation is pending, or to the knowledge of the signers, threatened affecting the Notes, and (ii) the unqualified legal opinion of the law firm of Hiscock & Barclay, LLP, Albany, New York, Bond Counsel, to the effect that the Notes are valid and legally binding obligations of the City School District of the City of Albany, Albany County, New York, that all the taxable real property therein will be subject to the levy of ad valorem taxes to pay the Notes and the interest thereon without limitation as to rate or amount, that among other things, the Code, includes certain requirements that must be met subsequent to the issuance of the Notes in order that interest thereon be and remain excluded from gross income of the recipients thereof, and that under existing law and assuming compliance with certain covenants, interest on the Notes is excluded from gross income for Federal income tax purposes, and, by virtue of the Local Finance Law, interest on the Notes is exempt from personal income taxes of the State of New York and its political subdivisions. In the opinion of Bond Counsel, interest on the Notes is not an item of tax preference for purposes of Federal alternative minimum tax imposed on individuals and corporations; provided, however, that interest on the Notes is included in the adjusted current earnings of corporations for purposes of calculating corporate alternative minimum taxable income. Such opinion also will state that: (a) the rights of the owners of the Notes and the enforceability of the Notes may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally and by equitable principles, whether considered at law or in equity; and (b) such opinion is given as of its dated date and that Bond Counsel assumes no obligation to update or supplement their opinion to reflect any facts or circumstances that may thereafter come to their attention or any changes in law that may occur thereafter. No opinion is expressed regarding other Federal tax consequences arising with respect to the Notes.

Bond Counsel has advised that (1) with respect to insurance companies subject to the tax imposed by Section 831 of the Code, the Code provides that such insurance company's deduction for loss is reduced by 15% of the sum of certain items, including interest on the Notes, (2) interest on the Notes earned by certain foreign corporations doing business in the United States could be subject to a branch profits tax imposed by Section 884 of the Code; (3) passive investment income, including interest on the Notes, may be subject to Federal income taxation under Section 1375 of the Code for Subchapter C earnings and profits at the close of the year if greater than 25% of the gross receipts of such Subchapter S corporation is passive investment income; (4) the Code requires recipients of certain Social Security and certain Railroad Retirement benefits to take into account, in determining the taxability of such benefits, receipts or accruals of interest on the Notes; and (5) under Section 32(i) of the Code, receipt of investment income, including interest on the Notes, may disqualify the recipient thereof from obtaining the earned income credit.

The Tax Increase Prevention and Reconciliation Act of 2005, enacted on May 17, 2006, contains a provision under which interest paid on tax-exempt obligations will be subject to information reporting in a manner similar to interest paid on taxable obligations. Although the new reporting requirement does not, in and of itself, affect the excludability of such interest from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Notes to be subject to backup withholding if such interest is paid to registered owners who either (a) fail to provide certain identifying information (such as the registered owner's taxpayer identification number) in the required manner or (b) have been identified by the IRS as having failed to report all interest and dividends required to be shown on their income tax returns. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner's federal income tax liability provided the required information is furnished to the IRS.

The opinion of Bond Counsel set forth above with respect to the Federal income tax treatment of interest paid on the Notes is based upon the current provisions of the Code. Tax legislation, administrative actions taken by tax authorities and court decisions, whether at the federal or state level, may adversely affect the tax-exempt status of interest on the Notes under federal or state law and could affect the market price for, or the marketability of, the Notes. Prospective purchasers of the Notes should consult their own tax advisers regarding the foregoing matters.

A Noteholder's Federal, State and local tax liability may otherwise be affected by the ownership or disposition of the Notes. The nature and extent of these other consequences will depend upon Noteholder's other items of income or deduction. Bond Counsel has expressed no opinion regarding any other such tax consequences. Each purchaser of the Notes should consult its tax advisor regarding the impact of the foregoing and other provisions of the Code on its individual tax position.

There is no Official Statement which accompanies this Notice of Sale.

The Notes may not be sold or transferred in principal amounts less than \$100,000. The purchaser, by purchasing the Notes, agrees either that (i) its purchase of the Notes is for its own account and not with a view to distributing the Notes or (ii) the Notes are, or will be, sold to no more than thirty-five (35) persons each of whom the purchaser believes has such knowledge and experience in business and financial matters that it is capable of evaluating the merits and risks of the prospective investment, and it is not purchasing for more than one account or with a view to distribute the Notes.

## **New Tax Cap Law**

On June 24, 2011, Governor Andrew Cuomo signed Chapter 97 of the Laws of 2011 ("Chapter 97") into law. Chapter 97 limits the amount that a school district (other than the "Big 5" city school districts: Buffalo, New York City, Rochester, Syracuse and Yonkers) may increase its real property tax levy by the lesser of the rate of inflation or 2% (the "Tax Cap"). Chapter 97 allows a school district to exceed the Tax Cap only with at least 60% voter approval. Any separate proposition that would cause a school district's tax levy limit to be exceeded also must receive at least 60% voter approval. School districts subject to the Tax Cap are required to calculate the tax levy limit and submit the information to the Commissioner of Education, State Comptroller, and Commissioner of Taxation and Finance no later than March 1st of each year.

In addition, Chapter 97:

- After a school district budget is rejected, allows a school district to resubmit the budget for another vote or adopt a zero tax levy growth budget. School districts would be required to adopt a zero tax levy growth budget if the proposal were twice rejected by voters.
- Includes a carryover provision of up to 1.5% from one year to the next of any amount in which the previous year's levy was below that year's Tax Cap.
- Includes a tax base growth factor calculated by the Commissioner of Taxation and Finance to account for any increase in the full value of taxable real property.
- Exempts pension payments over 2% from the previous year, court orders and judgments that exceed 5% of the total levy from the previous year and voter approved capital expenditures. Voter approved capital expenditures include the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law. The

portion of the tax levy necessary to support voter approved capital expenditures is an exclusion from the Tax Cap. School district obligations issued to finance voter approved capital expenditures are hereinafter referred to as "Capital Purpose Obligations".

- Requires that excess funds that are collected due to clerical or technical errors be held in reserve as determined by the Office of the State Comptroller. Those funds (including interest earned) are required to be used to offset the tax levy for the following fiscal year.
- Unless extended, sunsets on June 15, 2016.

The District is required to comply with the provisions of Chapter 97 commencing with the fiscal year commencing July 1, 2012. However, the Notes are Capital Purpose Obligations and, therefore, debt service on the Notes is excluded from the calculation of the Tax Cap.

**CITY SCHOOL DISTRICT OF THE CITY OF ALBANY**

**Dated: August 3, 2011**

**DANIEL EGAN**  
**President of the Board of Education**

# PROPOSAL FOR NOTES

**SALE DATE: August 10, 2011  
12:00 o'clock P.M., Prevailing Time**

Mr. Daniel Egan  
President of the Board of Education  
City School District of the City of Albany  
Albany County, New York  
c/o Fiscal Advisors & Marketing, Inc.  
120 Walton Street • Suite 600  
Syracuse, New York 13202  
Telephone # 315-752-0051 Ext. 1  
Telefax # 315-752-0057

## **\$5,676,000 Bond Anticipation Notes, 2011**

**Dated: August 17, 2011**

**Maturity: December 29, 2011**

Dear Mr. Egan:

For the \$5,676,000 principal amount of the Bond Anticipation Notes, 2011 of the City School District of the City of Albany, Albany County, New York as described in the annexed Notice of Sale which is hereby made a part of this bid, we will pay \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) and accrued interest to date of delivery with Notes to bear interest from their date until their maturity at the rate of \_\_\_\_\_ per centum ( \_\_\_\_\_ %) per annum.

Gross Interest \$ \_\_\_\_\_

Less Premium \$ \_\_\_\_\_

Net Interest Cost \$ \_\_\_\_\_

Net Interest Rate \_\_\_\_\_ %  
(four decimals)

\_\_\_\_\_  
Print Name of Bidder

\_\_\_\_\_  
Bank/Institution

Telephone (     ) \_\_\_\_\_

Telefax (     ) \_\_\_\_\_

Email Address: \_\_\_\_\_